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8 UNITED STATES DISTRICT COURT
9 WESTERN DISTRICT OF WASHINGTON
AT TACOMA

10 BRENDA M. JOHNSON,

11 Plaintiff,

v.

12 DEPARTMENT OF SOCIAL AND
13 HEALTH SERVICES, et al.,

14 Defendants.

CASE NO. C19-5174 BHS

ORDER DENYING PLAINTIFF'S
MOTION

15 This matter comes before the Court on Plaintiff Brenda Johnson's ("Johnson")
16 objection and motion to reopen. Dkt. 10.

17 On March 7, 2019, Johnson filed a motion to proceed *in forma pauperis* and a
18 proposed complaint against the Department of Social and Health Services, the
19 Department of Child Support, and Terry Lee Rembert ("Defendants") asserting violations
20 of her constitutional rights based on an alleged denial of benefits. Dkts. 1, 1-1. On
21 March 29, 2019, the Court dismissed the proposed complaint, granted Johnson leave to
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1 amend, and renoted her motion. Dkt. 3. The Court stated that the majority of her claims
2 against the State or State agencies failed and provided explicit instructions on how to
3 properly plead the elements of her civil rights claims. *Id.* On April 19, 2019, Johnson
4 filed a proposed amended complaint. Dkt. 4. On May 16, 2019, the Court denied
5 Johnson's motion, dismissed her complaint without leave to amend, and ordered the
6 Clerk to close the case. Dkt. 8. On May 20, 2019, Johnson filed the instant objections
7 and motion to reopen, which the Court will consider as a motion for reconsideration.
8 Dkt. 10.

9 Upon review of the motion, the Court concludes that dismissal was proper not
10 only for the reasons articulated in the previous order but also because Johnson's instant
11 motion and exhibits reinforce the Court's conclusion that she fails to state a claim. First,
12 Johnson alleges that Defendants were negligent and violated her Fifth and Fourteenth
13 Amendment rights to due process. *Id.* at 1–2. Johnson fails to show that allegations
14 involving negligence establish every element of a due process claim. Second, Johnson
15 attached the state administrative order that she seems to challenge. *Id.* at 7–19. In that
16 order, the administrative law judge clearly set forth Johnson's appeal rights. *Id.* at 17–19.
17 It does not appear that Johnson utilized those remedies, which raises questions of
18 exhaustion of state court remedies. Moreover, “when a litigant has not attempted to
19 present [her] federal claims in related state-court proceedings, a federal court should
20 assume that state procedures will afford an adequate remedy, in the absence of
21 unambiguous authority to the contrary.” *Pennzoil Co. v. Texaco, Inc.*, 481 U.S. 1, 15
22 (1987). If Johnson could have presented her due process claims in her appeal, then

1 abstention may apply. *Id.* Therefore, the Court denies Johnson's motion for
2 reconsideration.

3 **IT IS SO ORDERED.**

4 Dated this 1st day of July, 2019.

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7 BENJAMIN H. SETTLE
United States District Judge
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